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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,385	10/21/2003	Ralph Burton Dalton		2368

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EXAMINER	
CHAUDHRY, SAEED T	
ART UNIT	**PAPER NUMBER**
1746	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/690,385	DALTON ET AL.	
	Examiner	Art Unit	
	Saeed T. Chaudhry	1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-15 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 10/21/03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

Claims 1-8 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,379,471 in view of Wolf et al (6,448,216).

U.S. Patent No. 6,379,471 claims substantially all the limitations as claimed herein except that it does not claim cullet aggregate and the tile is of a pool.

Wolf et al (6,448,216) disclose an effective abrasive cleaner that contains cullet as the main abrasive ingredient. A compositions ranging from 10-100% by weight of broken glass (cullet) having a size of about 150 microns or less in diameter effectively cleans common surfaces. Preferably, 20%-100% by weight of the cleaning product is cullet, with the cullet particles ranging in size from about 63 microns (230 mesh) to about 45 microns (325 mesh) for powder formulations, and about 45 microns (325 mesh) to 38 microns (400 mesh) for liquid and paste formulations (see col. 2, lines 18-29). Using cullet in cleaning compositions also is environmentally beneficial in two respects. First, its use avoids the pollution and depletion caused by the mining of non-renewable resources. Second, using cullet conserves landfill space by providing a market for waste glass that, ironically, is discarded into landfills even in areas which have successful recycling programs (see col. 4, lines 40-46).

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process of 471' patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would

manipulate the size of cullet aggregate for better and efficient results. Furthermore, one of ordinary skill in the art would include a handle for the scrubbing element for the purpose of handling the cleaning element. U. S. Patent 471' claim to clean a tile. Therefore, it would have been obvious to one of ordinary skill in the art to clean tile on other surfaces such as pool or shower or floor, since tile of other surfaces would give same result.

Claims 1-6 and 9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent No. 6,592,432 in view of Wolf et al (6,448,216).

U.S. Patent No. 6,592,432 claims substantially all the limitations as claimed herein except that it does not claim cullet aggregate and the tile is of a pool.

Wolf et al (6,448,216) disclose an effective abrasive cleaner that contains cullet as the main abrasive ingredient. A compositions ranging from 10-100% by weight of broken glass (cullet) having a size of about 150 microns or less in diameter effectively cleans common surfaces (see col. 2, lines 18-29). Using cullet in cleaning compositions also is environmentally beneficial in two respects. First, its use avoids the pollution and depletion caused by the mining of non-renewable resources. Second, using cullet conserves landfill space by providing a market for waste glass that, ironically, is discarded into landfills even in areas which have successful recycling programs (see col. 4, lines 40-46).

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process of 432' patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion

caused by the mining of non-renewable resources. U. S. Patent 432' claim to clean a tile grout. Therefore, one of ordinary skill in the art expect that it would clean the tile of a pool as well.

Claims 10-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12-16 of U.S. Patent No. 6,180,588 in view of Wolf et al (6,448,216).

U.S. Patent No. 6,180,588 claims substantially all the limitations as claimed herein except that it does not claim cullet aggregate.

Wolf et al (6,448,216) disclose an effective abrasive cleaner that contains cullet as the main abrasive ingredient. A compositions ranging from 10-100% by weight of broken glass (cullet) having a size of about 150 microns or less in diameter effectively cleans common surfaces. Preferably, 20%-100% by weight of the cleaning product is cullet, with the cullet particles ranging in size from about 63 microns (230 mesh) to about 45 microns (325 mesh) for powder formulations, and about 45 microns (325 mesh) to 38 microns (400 mesh) for liquid and paste formulations (see col. 2, lines 18-29). Using cullet in cleaning compositions also is environmentally beneficial in two respects. First, its use avoids the pollution and depletion caused by the mining of non-renewable resources. Second, using cullet conserves landfill space by providing a market for waste glass that, ironically, is discarded into landfills even in areas which have successful recycling programs (see col. 4, lines 40-46).

It would have been obvious at the time applicant invented the claimed device to use cullet aggregate as disclosed by Wolf et al into the device of 588' patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of

non-renewable resources. Further one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results. It should be noted that no patentable weight has been given to the preamble/intended use in that the body of the claim fails to recite any limitations that give life and meaning to the preamble/intended use. See MPEP 2111.02. Further, one of ordinary skill in the art would expect that device for cleaning the tile grout would clean the pool tiles as well.

Claims 10-12 and 14-15 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-5, 7 of U.S. Patent No. 5,908,350 in view of Wolf et al (6,448,216).

U.S. Patent No. 5,908,350 claims substantially all the limitations as claimed herein except that it does not claim cullet aggregate.

Wolf et al (6,448,216) disclose an effective abrasive cleaner that contains cullet as the main abrasive ingredient. A compositions ranging from 10-100% by weight of broken glass (cullet) having a size of about 150 microns or less in diameter effectively cleans common surfaces. Preferably, 20%-100% by weight of the cleaning product is cullet, with the cullet particles ranging in size from about 63 microns (230 mesh) to about 45 microns (325 mesh) for powder formulations, and about 45 microns (325 mesh) to 38 microns (400 mesh) for liquid and paste formulations (see col. 2, lines 18-29). Using cullet in cleaning compositions also is environmentally beneficial in two respects. First, its use avoids the pollution and depletion caused by the mining of non-renewable resources. Second, using cullet conserves landfill space by providing a market for waste glass that, ironically, is discarded into landfills even in areas which have successful recycling programs (see col. 4, lines 40-46).

It would have been obvious at the time applicant invented the claimed device to use cullet aggregate as disclosed by Wolf et al into the device of 350' patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results.

The non-statutory double patenting rejection, whether of the obvious-type or non-obvious-type, is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent. In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); In re Van Ornam, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); and In re Goodman, 29 USPQ2d 2010 (Fed. Cir. 1993).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 (b) and © may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.78 (d).

Effective January 1, 1994, a registered attorney or agent of record may sign a Terminal Disclaimer. A Terminal Disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters in view of Wolf et al.

Walters (6,379,471) discloses substantially all the method and device limitations as claimed herein except that the reference does not disclose cullet aggregate.

Wolf et al (6,448,216) were discussed supra.

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process and device of Walters patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters in view of Wolf et al.

Walters (6,592,432) discloses substantially all the method and device limitations as claimed herein except that the reference does not disclose cullet aggregate.

Wolf et al (6,448,216) were discussed supra.

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process and device of Walters patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters in view of Wolf et al.

Walters (6,180,588) discloses substantially all the method and device limitations as claimed herein except that the reference does not disclose cullet aggregate.

Wolf et al (6,448,216) were discussed supra.

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process and device of Walters patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters in view of Wolf et al.

Walters (6,180,588) discloses substantially all the method and device limitations as claimed herein except that the reference does not disclose cullet aggregate.

Wolf et al (6,448,216) were discussed supra.

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process and device of Walters patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalton et al in view of Wolf et al.

Dalton et al (6,003,505) discloses substantially all the method and device limitations as claimed herein except that the reference does not disclose cullet aggregate and the pool tiles.

Wolf et al (6,448,216) were discussed supra.

It would have been obvious at the time applicant invented the claimed process to use cullet aggregate as disclosed by Wolf et al into the process and device of Walters patent since it is advantageous to use cullet aggregate for the purpose of reducing the pollution and depletion caused by the mining of non-renewable resources. Further, one of ordinary skill in the art would manipulate the size of cullet aggregate for better and efficient results. Dalton et al disclose to clean concrete pools and acrylic type surfaces. Therefore, one of ordinary skill in the art would expect that pool tiles would be cleaned with the method and the device of the Dalton et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (571) 272-1298. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Barr, can be reached on (571)-272-1414. The fax phone number for non-final is (703)-872-9306.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access

to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Saeed T. Chaudhry
Patent Examiner

MICHAEL BARR
SUPERVISORY PATENT EXAMINER